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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

Case No. 1D 2002 63051

KENT SANDER MOODY
1427 Grant Street
Santa Monica, CA 90405

**FIRST AMENDED
A C C U S A T I O N**

Physical Therapist License No. PT 8529

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.
2. On or about April 10, 1978, the Physical Therapy Board of California issued Physical Therapist License Number PT 8529 to Kent Sander Moody (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2006, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Physical Therapy Board of California (Board), under the authority of the following sections of the Business and

1 Professions Code (Code).

2 4. Section 2660 of the Code states, in pertinent part:

3 “The board may, after the conduct of appropriate proceedings under the
4 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
5 probationary conditions upon, or issue subject to terms and conditions any license, certificate, or
6 approval issued under this chapter for any of the following causes:

7 * * *

8 “(h) Gross negligence in his or her practice as a physical therapist.

9 “(i) Conviction of a violation of any of the provisions of this chapter or of the
10 State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or
11 assisting in or abetting the violating of, or conspiring to violate any provision or term of
12 this chapter or of the State Medical Practice Act.

13 “(j) The aiding or abetting of any person to violate this chapter or any regulations
14 duly adopted under this chapter.

15 “(k) The aiding or abetting of any person to engage in the unlawful practice of
16 physical therapy.

17 “(l) The commission of any fraudulent, dishonest, or corrupt act which is
18 substantially related to the qualifications, functions, or duties of a physical therapist.”

19 5. Section 2630 of the Code states, in pertinent part:

20 “A physical therapist . . . may utilize the services of one aide engaged in patient-
21 related tasks to assist the physical therapist in his or her practice of physical therapy. . . . The
22 aide shall at all times be under the orders, directions, and immediate supervision of the physical
23 therapist. . . . The physical therapist shall provide continuous and immediate supervision of the
24 aide. The physical therapist shall be in the same facility as, and in proximity to, the location
25 where the aide is performing patient-related tasks, and shall be readily available at all times to
26 provide advice or instruction to the aide. When patient-related tasks are provided to a patient by
27 an aide, the supervising physical therapist shall, at some point during the treatment day, provide
28 direct service to the patient as treatment for the patient’s condition, or to further evaluate and

1 monitor the patient's progress, and shall correspondingly document the patient's record."

2 6. Section 2620.7 of the Code states:

3 "A physical therapist shall document his or her evaluation, goals, treatment plan,
4 and summary of treatment in the patient record. Patient records shall be maintained for a period
5 of no less than seven years following the discharge of the patient, except that the records of
6 unemancipated minors shall be maintained at least one year after the minor has reached the age
7 of 18 years, and not in any case less than seven years."

8 7. Section 725 of the Code states:

9 "Repeated acts of clearly excessive prescribing or administering of drugs or
10 treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts
11 of clearly excessive use of diagnostic or treatment facilities as determined by the standard
12 of the community of licensees is unprofessional conduct for a physician and surgeon,
13 dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.
14 However, pursuant to Section 2241.5, no physician and surgeon in compliance with the
15 California Intractable Pain Treatment Act shall be subject to disciplinary action for
16 lawfully prescribing or administering controlled substances in the course of treatment of a
17 person for intractable pain."

18 8. Section 810 of the Code states in pertinent part:

19 "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
20 including suspension or revocation of a license or certificate, for a health care
21 professional to do any of the following in connection with his or her professional
22 activities:

23 * * *

24 "(2) Knowingly prepare, make, or subscribe any writing, with intent to present or
25 use the same, or to allow it to be presented or used in support of any false or fraudulent
26 claim.

27 "(b) It shall constitute cause for revocation or suspension of a license or
28 certificate for a health care professional to engage in any conduct prohibited under

1 Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.”

2 9. California Code of Regulations, title 16, section 1399, states in pertinent
3 part:

4 “A physical therapy aide is an unlicensed person who assists a physical therapist
5 and may be utilized by a physical therapist in his or her practice by performing nonpatient
6 related tasks, or by performing patient related tasks.

7 “(a) As used in these regulations:

8 “(1) A ‘patient related task’ means a physical therapy service rendered directly to
9 the patient by an aide, excluding nonpatient related tasks as defined below.

10 “(2) A ‘nonpatient related task’ means a task related to observation of the patient,
11 transport of patients, physical support only during gait or transfer training, housekeeping
12 duties, clerical duties and similar functions.

13 “(b) ‘Under the orders, direction and immediate supervision’ means:

14 “(1) Prior to the initiation of care, the physical therapist shall evaluate every
15 patient prior to the performance of any patient related tasks by the aide. The evaluation
16 shall be documented in the patient's record.

17 “(2) The physical therapist shall formulate and record in the patient's record a
18 treatment program based upon the evaluation and any other information available to the
19 physical therapist, and shall determine those patient related tasks which may be assigned
20 to an aide. The patient's record shall reflect those patient related tasks that were rendered
21 by the aide, including the signature of the aide who performed those tasks.

22 “(3) The physical therapist shall assign only those patient related tasks that can be
23 safely and effectively performed by the aide. The supervising physical therapist shall be
24 responsible at all times for the conduct of the aide while he or she is on duty.

25 “(4) The physical therapist shall provide continuous and immediate supervision of
26 the aide. The physical therapist shall be in the same facility as and in immediate
27 proximity to the location where the aide is performing patient related tasks, and shall be
28 readily available at all times to provide advice or instruction to the aide. When patient

1 related tasks are provided a patient by an aide the supervising physical therapist shall at
2 some point during the treatment day provide direct service to the patient as treatment for
3 the patient's condition or to further evaluate and monitor the patient's progress, and so
4 document in the patient's record.

5 * * *

6 “(6) The supervising physical therapist shall countersign with their first initial and
7 last name, and date all entries in the patient's record, on the same day as patient related
8 tasks were provided by the aide.”

9 10. Section 2661.5 of the Code states:

10 “(a) In any order issued in resolution of a disciplinary proceeding before
11 the board, the board may request the administrative law judge to direct any
12 licensee found guilty of unprofessional conduct to pay to the board a sum not to
13 exceed the actual and reasonable costs of the investigation and prosecution of the
14 case.

15 “(b) The costs to be assessed shall be fixed by the administrative law
16 judge and shall not in any event be increased by the board. When the board does
17 not adopt a proposed decision and remands the case to an administrative law
18 judge, the administrative law judge shall not increase the amount of the assessed
19 costs specified in the proposed decision.

20 “(c) When the payment directed in an order for payment of costs is not
21 made by the licensee, the board may enforce the order of payment by bringing an
22 action in any appropriate court. This right of enforcement shall be in addition to
23 any other rights the board may have as to any licensee directed to pay costs.

24 “(d) In any judicial action for the recovery of costs, proof of the board's
25 decision shall be conclusive proof of the validity of the order of payment and the
26 terms for payment.

27 “(e) (1) Except as provided in paragraph (2), the board shall not renew
28 or reinstate the license or approval of any person who has failed to pay all

1 of the costs ordered under this section.

2 (2) Notwithstanding paragraph (1), the board may, in its
3 discretion, conditionally renew or reinstate for a maximum of one year the
4 license or approval of any person who demonstrates financial hardship and
5 who enters into a formal agreement with the board to reimburse the board
6 within that one year period for those unpaid costs.

7 “(f) All costs recovered under this section shall be deposited in the
8 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
9 costs are actually recovered or the previous fiscal year, as the board may direct.”

10 **CAUSE FOR DISCIPLINE**

11 (Failure to Properly Document Treatment)

12 11. Respondent is subject to disciplinary action under section 2620.7 of the
13 Code in conjunction with California Code of Regulations Title 16, section 1399, in that he failed
14 to properly supervise physical therapy aides by ensuring proper documentation of treatment.
15 The circumstances are as follows:

16 A. With respect to N.S.¹, respondent’s patient was treated by a physical therapy
17 aide on numerous occasions between January 18 and April 26, 2001, and respondent (1)
18 failed to countersign the aide’s entries in the chart and (2) failed to ensure that the aide
19 properly documented the patient’s chart.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Physical Therapy Board of California issue a
23 decision:

24 1. Revoking or suspending Physical Therapist License Number PT 8529,
25 issued to Kent Sander Moody;

26
27
28 1. The patient is referred to herein by initials to protect the patient’s privacy. The full
name of the patient will be disclosed to respondent upon a timely request for discovery.

2. Ordering Kent Sander Moody to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

DATED: March 13, 2006

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

Moody Amended Accusation.wpd